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State of Wisconsin
2007 - 2008 LEGISLATURE

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DIV 5E

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MR

DOA:.....Rhodes, BB0004 - County responsibility for care and placement of child

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) is required to include in a dispositional order placing a child outside the home, an extension of a dispositional order continuing the placement of a child outside the home, and a consent decree maintaining a child in a placement outside the home findings that continued placement of the child in the home would be contrary to the welfare of the child, that reasonable efforts have been made to prevent the removal of the child from the home, and that reasonable efforts have been made to achieve the goal of the child's permanency plan, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability. This bill requires the juvenile court to make the finding that reasonable efforts have been made to achieve the goal of the child's permanency plan in a termination of parental rights (TPR) order if a permanency plan has previously been filed with respect to the child.

Under current law, in an action affecting the family, for example, a divorce proceeding, if the circuit court finds that neither parent is able to care for the child

adequately or is fit and proper to have care and custody of the child, the circuit court may declare the child to be in need of protection or services and transfer legal custody of the child to a relative of the child, to the county department of human services or social services (county department), or to a licensed child welfare agency. This bill also permits a circuit court to transfer legal custody of a child found to be in need of protection or services in an action affecting the family in Milwaukee County to DHFS. In addition, if the circuit court transfers legal custody of a child found to be in need of protection or services in an action affecting the family to a county department, DHFS, or a licensed child welfare agency, the bill requires the circuit court to refer the matter to the juvenile court intake worker, who is required to conduct an intake inquiry to determine whether a petition alleging the child to be in need of protection or services should be filed with the juvenile court. Further, the bill requires a circuit court to include in an order transferring legal custody of a child found to be in need of protection or services in an action affecting the family a finding that placement of the child in his or her home would be contrary to the welfare of the child and, subject to certain exceptions, a finding that reasonable efforts have been made to prevent the removal of the child from the home.

The bill also requires a juvenile court, when ordering a child to be placed outside the home under the supervision of a county department or, in Milwaukee County, DHFS to order the child into the placement and care responsibility of the county department or DHFS and to assign the county department or DHFS primary responsibility for providing services to the child. In addition, the bill requires a county department, DHFS, or DOC, when placing a child outside the home under a voluntary agreement, to specifically state in the voluntary agreement that the county department, DHFS, or DOC has placement and care responsibility for the child and has primary responsibility for providing services to the child.

Under current law, if a child who has been taken into custody under the Children's Code or the Juvenile Justice Code is not released, the juvenile court is required to hold a hearing to determine whether the child should continue to be held in custody and is required to include in an order to hold a child in temporary physical custody certain findings, including a finding that reasonable efforts have been made to prevent the removal of the child from the home. Currently, if for good cause shown sufficient information is not available for the juvenile court to make that finding, the county department, DHFS in Milwaukee County, or the agency primarily responsible for providing services to the child is required to file with the juvenile court sufficient information for the juvenile court to make that finding within five days after the date of the temporary physical custody order. This bill requires that information to be filed with the juvenile court within five days, excluding Saturdays, Sundays, and legal holidays, after the date on which the temporary physical custody order is granted.



For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 48.21 (5) (b) 1. of the statutes is renumbered 48.21 (5) (b) 1. a. and
2 amended to read:

3 48.21 (5) (b) 1. a. A finding that continued placement of the child in his or her
4 home would be contrary to the welfare of the child. ~~Unless the judge or circuit court~~
5 ~~commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to~~
6 ~~5. applies, the order shall in addition include a-~~

7 b. A finding as to whether the person who took the child into custody and the
8 intake worker have made reasonable efforts to prevent the removal of the child from
9 the home, while assuring that the child's health and safety are the paramount
10 concerns, and a- unless the judge or circuit court commissioner finds that any of the
11 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

12 c. A finding as to whether the person who took the child into custody and the
13 intake worker have made reasonable efforts to make it possible for the child to return
14 safely home or, if,

15 1m. If for good cause shown sufficient information is not available for the judge
16 or circuit court commissioner to make a finding as to whether those reasonable
17 efforts were made to prevent the removal of the child from the home, while assuring
18 that the child's health and safety are the paramount concerns, a finding as to
19 whether those reasonable efforts were made to make it possible for the child to return
20 safely home and an order for the county department, department, in a county having
21 a population of 500,000 or more, or agency primarily responsible for providing

SECTION 1

1 services to the child under the custody order to file with the court sufficient
2 information for the judge or circuit court commissioner to make a finding as to
3 whether those reasonable efforts were made to prevent the removal of the child from
4 the home by no later than 5 days, excluding Saturdays, Sundays, and legal holidays,
5 after the date of on which the order is granted.

6 **SECTION 2.** 48.21 (5) (b) 1. d. of the statutes is created to read:

7 48.21 (5) (b) 1. d. If the child is under the supervision of the county department
8 or, in a county having a population of 500,000 or more, the department, an order
9 ordering the child into the placement and care responsibility of the county
10 department or department as required under 42 USC 672 (a) (2) and assigning the
11 county department or department primary responsibility for providing services to
12 the child.

13 **SECTION 3.** 48.21 (5) (c) of the statutes is amended to read:

14 48.21 (5) (c) The judge or circuit court commissioner shall make the findings
15 specified in par. (b) 1., 1m., and 3. on a case-by-case basis based on circumstances
16 specific to the child and shall document or reference the specific information on
17 which those findings are based in the custody order. A custody order that merely
18 references par. (b) 1., 1m., or 3. without documenting or referencing that specific
19 information in the custody order or an amended custody order that retroactively
20 corrects an earlier custody order that does not comply with this paragraph is not
21 sufficient to comply with this paragraph.

22 **SECTION 4.** 48.235 (4) (b) of the statutes is amended to read:

23 48.235 (4) (b) The court shall order the agency identified under s. ~~48.355 (2) (b)~~
24 ~~48.33 (1) (c)~~ as primarily responsible for the provision of services to notify the
25 guardian ad litem, if any, regarding actions to be taken under par. (a).

1 **SECTION 5.** 48.235 (4m) (b) of the statutes is amended to read:

2 48.235 (**4m**) (b) The court shall order the agency identified under s. 48.355 (~~2~~)
3 (~~b~~) 1. 48.33 (1) (c) as primarily responsible for the provision of services to notify the
4 guardian ad litem, if any, regarding actions to be taken under par. (a).

5 **SECTION 6.** 48.315 (2m) (a) 1. of the statutes is amended to read:

6 48.315 (**2m**) (a) 1. The court making an initial finding under s. 48.21 (5) (b) 1.
7 or 1m., 48.355 (2) (b) 6., or 48.357 (2v) (a) 1. that reasonable efforts have been made
8 to prevent the removal of the child from the home, while assuring that the child's
9 health and safety are the paramount concerns, or an initial finding under s. 48.21
10 (5) (b) 3., 48.355 (2) (b) 6r., or 48.357 (2v) (a) 3. that those efforts were not required
11 to be made because a circumstance specified in s. 48.355 (2d) (b) 1. to 5. applies, more
12 than 60 days after the date on which the child was removed from the home.

13 **SECTION 7.** 48.32 (1) (b) 1. of the statutes is renumbered 48.32 (1) (b) 1. (intro.)
14 and amended to read:

15 48.32 (1) (b) 1. (intro.) If at the time the consent decree is entered into the child
16 is placed outside the home under a voluntary agreement under s. 48.63 or is
17 otherwise living outside the home without a court order and if the consent decree
18 maintains the child in that placement or other living arrangement, the consent
19 decree shall include ~~a-~~ all of the following:

20 a. A finding that placement of the child in his or her home would be contrary
21 to the welfare of the child, ~~a-~~

22 b. A finding as to whether the county department, the department, in a county
23 having a population of 500,000 or more, or the agency primarily responsible for
24 providing services to the child has made reasonable efforts to prevent the removal
25 of the child from the home, while assuring that the child's health and safety are the

1 paramount concerns, unless the judge or circuit court commissioner finds that any
2 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, ~~and a.~~

3 c. A finding as to whether the county department, department, or agency has
4 made reasonable efforts to achieve the goal of the child's permanency plan, unless
5 return of the child to the home is the goal of the permanency plan and the judge or
6 circuit court commissioner finds that any of the circumstances specified in s. 48.355
7 (2d) (b) 1. to 5. applies.

8 **SECTION 8.** 48.32 (1) (b) 1. d. of the statutes is created to read:

9 48.32 (1) (b) 1. d. If the child's placement or other living arrangement is under
10 the supervision of the county department or, in a county having a population of
11 500,000 or more, the department, an order ordering the child into the placement and
12 care responsibility of the county department or department as required under 42
13 USC 672 (a) (2) and assigning the county department or department primary
14 responsibility for providing services to the child.

15 **SECTION 9.** 48.335 (3g) of the statutes is renumbered 48.335 (3g) (intro.) and
16 amended to read:

17 48.335 (3g) (intro.) At hearings under this section, if the agency, as defined in
18 s. 48.38 (1) (a), is recommending placement of the child in a foster home, treatment
19 foster home, group home, or residential care center for children and youth or in the
20 home of a relative other than a parent, the agency shall present as evidence specific
21 information showing that all of the following:

22 (a) That continued placement of the child in his or her home would be contrary
23 to the welfare of the child, ~~specific information showing that.~~

24 (b) That the county department, the department, in a county having a
25 population of 500,000 or more, or the agency primarily responsible for providing

1 services to the child has made reasonable efforts to prevent the removal of the child
2 from the home, while assuring that the child's health and safety are the paramount
3 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
4 applies, ~~and specific information showing that.~~

5 (c) That the county department, department, or agency has made reasonable
6 efforts to achieve the goal of the child's permanency plan, unless return of the child
7 to the home is the goal of the permanency plan and any of the circumstances specified
8 in s. 48.355 (2d) (b) 1. to 5. applies.

9 **SECTION 10.** 48.355 (2) (b) 1. of the statutes is amended to read:

10 48.355 (2) (b) 1. The specific services ~~or continuum of services~~ to be provided
11 to the child and family, to the child expectant mother and family, or to the adult
12 expectant mother, ~~the identity of the agencies which are to be primarily responsible~~
13 ~~for the provision of the services ordered by the judge, the identity of the person or~~
14 ~~agency who will provide case management or coordination of services, if any, and, if~~
15 custody of the child is to be transferred to effect the treatment plan, the identity of
16 the legal custodian.

17 **SECTION 11.** 48.355 (2) (b) 6g. of the statutes is created to read:

18 48.355 (2) (b) 6g. If the child is placed outside the home under the supervision
19 of the county department or, in a county having a population of 500,000 or more, the
20 department, an order ordering the child into the placement and care responsibility
21 of the county department or department as required under 42 USC 672 (a) (2) and
22 assigning the county department or department primary responsibility for providing
23 services to the child.

24 **SECTION 12.** 48.357 (1) (am) 3. of the statutes is amended to read:

1 48.357 (1) (am) 3. If the court changes the child's placement from a placement
2 outside the home to another placement outside the home, the change in placement
3 order shall contain ~~one of the statements~~ the applicable order specified in sub. (2v)
4 (a) 1m. and the applicable statement specified in sub. (2v) (a) 2.

5 **SECTION 13.** 48.357 (1) (c) 3. of the statutes is amended to read:

6 48.357 (1) (c) 3. If the court changes the child's placement from a placement in
7 the child's home to a placement outside the child's home, the change in placement
8 order shall contain the findings specified in sub. (2v) (a) 1., ~~one of the statements~~ the
9 applicable order specified in sub. (2v) (a) 1m., the applicable statement specified in
10 sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
11 specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the
12 determination specified in sub. (2v) (a) 3.

13 **SECTION 14.** 48.357 (2m) (c) of the statutes is amended to read:

14 48.357 (2m) (c) If the court changes the child's placement from a placement in
15 the child's home to a placement outside the child's home, the change in placement
16 order shall contain the findings specified in sub. (2v) (a) 1., ~~one of the statements~~ the
17 applicable order specified in sub. (2v) (a) 1m., the applicable statement specified in
18 sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
19 specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the
20 determination specified in sub. (2v) (a) 3. If the court changes the child's placement
21 from a placement outside the home to another placement outside the home, the
22 change in placement order shall contain the applicable order specified in sub. (2v)
23 (a) 1m. and the applicable statement specified in sub. (2v) (a) 2.

24 **SECTION 15.** 48.357 (2v) (a) 1m. of the statutes is created to read:

1 48.357 (2v) (a) 1m. If the change in placement order changes the placement of
2 a child who is under the supervision of the county department or, in a county having
3 a population of 500,000 or more, the department to a placement outside the child's
4 home, whether from a placement in the home or from another placement outside the
5 home, an order ordering the child into, or to be continued in, the placement and care
6 responsibility of the county department or department as required under 42 USC
7 672 (a) (2) and assigning the county department or department primary
8 responsibility, or continued primary responsibility, for providing services to the
9 child.

10 **SECTION 16.** 48.38 (2) (intro.) of the statutes is amended to read:

11 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
12 for each child living in a foster home, treatment foster home, group home, residential
13 care center for children and youth, juvenile detention facility, or shelter care facility,
14 the agency that placed the child or arranged the placement or the agency assigned
15 primary responsibility for providing services to the child under s. 48.355 (2) (b) 6g.
16 shall prepare a written permanency plan, if any of the following conditions exists,
17 and, for each child living in the home of a relative other than a parent, that agency
18 shall prepare a written permanency plan, if any of the conditions specified in pars.
19 (a) to (e) exists:

20 **SECTION 17.** 48.417 (2) (c) of the statutes is amended to read:

21 48.417 (2) (c) The agency primarily responsible for providing services to the
22 ~~child and the family~~ under a court order, if required under s. 48.355 (2) (b) 6. to make
23 reasonable efforts to make it possible for the child to return safely to his or her home,
24 has not provided to the family of the child, consistent with the time period in the

1 child's permanency plan, the services necessary for the safe return of the child to his
2 or her home.

3 **SECTION 18.** 48.425 (1) (c) of the statutes is amended to read:

4 48.425 (1) (c) If the child has been previously adjudicated to be in need of
5 protection and services, a statement of the steps the agency or person responsible for
6 provision of services has taken to remedy the conditions responsible for court
7 intervention and the parent's response to and cooperation with these services. If the
8 child has been removed from the home, the report ~~should~~ shall also include a
9 statement of the reasons why the child cannot be returned safely to the family, and
10 the steps the person or agency has taken to effect this return. If a permanency plan
11 has previously been prepared for the child, the report shall also include specific
12 information showing that the agency primarily responsible for providing services to
13 the child has made reasonable efforts to achieve the goal of the child's permanency
14 plan.

15 **SECTION 19.** 48.43 (1) (am) of the statutes is created to read:

16 48.43 (1) (am) If the department or a county department receives guardianship
17 or custody of the child under par. (a), an order ordering the child into the placement
18 and care responsibility of the department or county department as required under
19 42 USC 672 (a) (2) and assigning the department or county department primary
20 responsibility for providing services to the child.

21 **SECTION 20.** 48.43 (1) (cm) of the statutes is created to read:

22 48.43 (1) (cm) If a permanency plan has previously been prepared for the child,
23 a finding as to whether the agency primarily responsible for providing services to the
24 child has made reasonable efforts to achieve the goal of the child's permanency plan.
25 The court shall make the findings specified in this paragraph on a case-by-case basis

1 based on circumstances specific to the child and shall document or reference the
2 specific information on which those findings are based in the order. An order that
3 merely references this paragraph without documenting or referencing that specific
4 information in the order or an amended order that retroactively corrects an earlier
5 order that does not comply with this paragraph is not sufficient to comply with this
6 paragraph.

7 **SECTION 21.** 48.63 (1) of the statutes is amended to read:

8 48.63 (1) Acting under court order or voluntary agreement, the child's parent
9 or guardian or the department of ~~health and family services~~, the department of
10 corrections, a county department, or a child welfare agency licensed to place children
11 in foster homes, treatment foster homes, or group homes may place a child or
12 negotiate or act as intermediary for the placement of a child in a foster home,
13 treatment foster home, or group home. Voluntary agreements under this subsection
14 may not be used for placements in facilities other than foster, treatment foster, or
15 group homes and may not be extended. A foster home or treatment foster home
16 placement under a voluntary agreement may not exceed 180 days from the date on
17 which the child was removed from the home under the voluntary agreement. A group
18 home placement under a voluntary agreement may not exceed 15 days from the date
19 on which the child was removed from the home under the voluntary agreement,
20 except as provided in sub. (5). These time limitations do not apply to placements
21 made under s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be
22 made only under this subsection and sub. (5) (b) and shall be in writing and shall
23 specifically state that the agreement may be terminated at any time by the parent
24 or guardian or by the child if the child's consent to the agreement is required. The
25 child's consent to the agreement is required whenever the child is 12 years of age or

1 older. If a county department, the department, or the department of corrections
2 places a child or negotiates or acts as intermediary for the placement of a child under
3 this subsection, the voluntary agreement shall also specifically state that the county
4 department, department, or department of corrections has placement and care
5 responsibility for the child as required under 42 USC 672 (a) (2) and has primary
6 responsibility for providing services to the child.

7 **SECTION 22.** 48.75 (1g) (c) 1. of the statutes is amended to read:

8 48.75 (1g) (c) 1. A statement that the public licensing agency issuing the license
9 ~~is responsible~~ has placement and care responsibility for the child as required under
10 42 USC 672 (a) (2) and has primary responsibility for providing services to the child
11 who is placed in the foster home, as specified in the agreement.

12 **SECTION 23.** 767.41 (3) (a) of the statutes is amended to read:

13 767.41 (3) (a) If the interest of any child demands it, and if the court finds that
14 neither parent is able to care for the child adequately or that neither parent is fit and
15 proper to have the care and custody of the child, the court may declare the child to
16 be in need of protection or services and transfer legal custody of the child to a relative
17 of the child, as defined in s. 48.02 (15), to a county department, as defined under s.
18 48.02 (2g), ~~or to a licensed child welfare agency, or, in a county having a population~~
19 of 500,000 or more, the department of health and family services. If the court
20 transfers legal custody of a child under this subsection, in its order the court shall
21 notify the parents of any applicable grounds for termination of parental rights under
22 s. 48.415. If the court transfers legal custody under this section to an agency, the
23 court shall also refer the matter to the court intake worker, as defined in s. 48.02 (3),
24 who shall conduct an inquiry under s. 48.24 to determine whether a petition should
25 be filed under s. 48.13.

1 **SECTION 24.** 767.41 (3) (am) of the statutes is created to read:

2 767.41 (3) (am) If the court transfers legal custody of a child under this
3 subsection, the order transferring custody shall include a finding that placement of
4 the child in his or her home would be contrary to the welfare of the child and a finding
5 that reasonable efforts have been made to prevent the removal of the child from the
6 home, while assuring that the health and safety of the child are the paramount
7 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
8 applies. If the legal custodian appointed under par. (a) is a county department, the
9 court shall order the child into the placement and care responsibility of the county
10 department as required under 42 USC 672 (a) (2) and shall assign the county
11 department primary responsibility for providing services to the child. The court
12 shall make the findings specified in this paragraph on a case-by-case basis based
13 on circumstances specific to the child and shall document or reference the specific
14 information on which those findings are based in the court order. A court order that
15 merely references this paragraph without documenting or referencing that specific
16 information in the court order or an amended court order that retroactively corrects
17 an earlier court order that does not comply with this paragraph is not sufficient to
18 comply with this paragraph.

19 **SECTION 25.** 767.451 (7) of the statutes is amended to read:

20 767.451 (7) **TRANSFER TO DEPARTMENT.** The court may order custody transferred
21 to the department of health and family services only if that department agrees to
22 accept custody. If the court orders custody transferred to the department of health
23 and family services, the order transferring custody shall include the findings and
24 order specified in s. 767.41 (3) (am).

1 **SECTION 26.** 938.21 (5) (b) 1. of the statutes is renumbered 938.21 (5) (b) 1. a.
2 and amended to read:

3 938.21 **(5)** (b) 1. a. A finding that continued placement of the juvenile in his or
4 her home would be contrary to the welfare of the juvenile. ~~Unless the court finds that~~
5 ~~any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, the order shall~~
6 ~~in addition include a-~~

7 b. A finding as to whether the person who took the juvenile into custody and
8 the intake worker have made reasonable efforts to prevent the removal of the
9 juvenile from the home, while assuring that the juvenile's health and safety are the
10 paramount concerns, ~~and a- unless the court finds that any of the circumstances~~
11 specified in s. 938.355 (2d) (b) 1. to 4. applies.

12 c. A finding as to whether the person who took the juvenile into custody and
13 the intake worker have made reasonable efforts to make it possible for the juvenile
14 to return safely home.

15 1m. If for good cause shown sufficient information is not available for the court
16 to make a finding as to whether ~~those~~ reasonable efforts were made to prevent the
17 removal of the juvenile from the home, ~~the order shall include~~ while assuring that
18 the juvenile's health and safety are the paramount concerns, a finding as to whether
19 ~~those~~ reasonable efforts were made to make it possible for the juvenile to return
20 safely home and an order for the county department or agency primarily responsible
21 for providing services to the juvenile under the custody order to file with the court
22 sufficient information for the court to make a finding as to whether those reasonable
23 efforts were made to prevent the removal of the juvenile from the home by no later
24 than 5 days, excluding Saturdays, Sundays, and legal holidays, after the date of on
25 which the order is granted.

1 **SECTION 27.** 938.21 (5) (b) 1. d. of the statutes is created to read:

2 938.21 (5) (b) 1. d. If the juvenile is under the supervision of the county
3 department, an order ordering the juvenile into the placement and care
4 responsibility of the county department as required under 42 USC 672 (a) (2) and
5 assigning the county department primary responsibility for providing services to the
6 juvenile.

7 **SECTION 28.** 938.21 (5) (c) of the statutes is amended to read:

8 938.21 (5) (c) The court shall make the findings specified in par. (b) 1., 1m., and
9 3. on a case-by-case basis based on circumstances specific to the juvenile and shall
10 document or reference the specific information on which those findings are based in
11 the custody order. A custody order that merely references par. (b) 1., 1m., or 3.
12 without documenting or referencing that specific information in the custody order
13 or an amended custody order that retroactively corrects an earlier custody order that
14 does not comply with this paragraph is not sufficient to comply with this paragraph.

15 **SECTION 29.** 938.235 (4) (b) of the statutes is amended to read:

16 938.235 (4) (b) The court shall order the agency identified under s. ~~938.355 (2)~~
17 ~~(b) 1.~~ 938.33 (1) (c) as primarily responsible for the provision of services to notify the
18 guardian ad litem, if any, regarding actions to be taken under par. (a).

19 **SECTION 30.** 938.315 (2m) (a) of the statutes is amended to read:

20 938.315 (2m) (a) The court making an initial finding under s. 938.21 (5) (b) 1.
21 or 1m., 938.355 (2) (b) 6., or 938.357 (2v) (a) 1. that reasonable efforts have been made
22 to prevent the removal of the juvenile from the home, while assuring that the
23 juvenile's health and safety are the paramount concerns, or an initial finding under
24 s. 938.21 (5) (b) 3., 938.355 (2) (b) 6r., or 938.357 (2v) (a) 3. that those efforts were not
25 required to be made because a circumstance specified in s. 938.355 (2d) (b) 1. to 4.

1 applies, more than 60 days after the date on which the juvenile was removed from
2 the home.

3 **SECTION 31.** 938.32 (1) (c) 1. d. of the statutes is created to read:

4 938.32 (1) (c) 1. d. If the juvenile's placement or other living arrangement is
5 under the supervision of the county department, an order ordering the juvenile into
6 the placement and care responsibility of the county department as required under
7 42 USC 672 (a) (2) and assigning the county department primary responsibility for
8 providing services to the juvenile.

9 **SECTION 32.** 938.355 (2) (b) 1. of the statutes is amended to read:

10 938.355 (2) (b) 1. The specific services ~~or continuum of services~~ to be provided
11 to the juvenile and the juvenile's family, ~~the identity of the agencies that are~~
12 ~~primarily responsible for the provision of the services, the identity of the person or~~
13 ~~agency that will provide case management or coordination of services, if any, and, if~~
14 custody is to be transferred to effect the treatment plan, the identity of the legal
15 custodian.

16 **SECTION 33.** 938.355 (2) (b) 6g. of the statutes is created to read:

17 938.355 (2) (b) 6g. If the juvenile is placed outside the home under the
18 supervision of the county department, an order ordering the juvenile into the
19 placement and care responsibility of the county department as required under 42
20 USC 672 (a) (2) and assigning the county department primary responsibility for
21 providing services to the juvenile.

22 **SECTION 34.** 938.355 (6) (d) 1. of the statutes is amended to read:

23 938.355 (6) (d) 1. Placement of the juvenile in a secure detention facility or
24 juvenile portion of a county jail that meets the standards promulgated by the
25 department by rule or in a place of nonsecure custody, for not more than 10 days and

1 the provision of educational services consistent with his or her current course of
2 study during the period of placement. The juvenile shall be given credit against the
3 period of detention or nonsecure custody imposed under this subdivision for all time
4 spent in secure detention in connection with the course of conduct for which the
5 detention or nonsecure custody was imposed. If the court orders placement of the
6 juvenile in a place of nonsecure custody under the supervision of the county
7 department, the court shall order the juvenile into the placement and care
8 responsibility of the county department as required under 42 USC 672 (a) (2) and
9 shall assign the county department primary responsibility for providing services to
10 the juvenile.

11 **SECTION 35.** 938.355 (6m) (a) 1g. of the statutes is amended to read:

12 938.355 **(6m)** (a) 1g. Placement of the juvenile in a secure detention facility or
13 juvenile portion of a county jail that meets the standards promulgated by the
14 department by rule or in a place of nonsecure custody, for not more than 10 days and
15 the provision of educational services consistent with his or her current course of
16 study during the period of placement. The juvenile shall be given credit against the
17 period of detention or nonsecure custody imposed under this subdivision for all time
18 spent in secure detention in connection with the course of conduct for which the
19 detention or nonsecure custody was imposed. The use of placement in a secure
20 detention facility or in a juvenile portion of a county jail as a sanction under this
21 subdivision is subject to the adoption of a resolution by the county board of
22 supervisors under s. 938.06 (5) authorizing the use of those placements as a sanction.
23 If the court orders placement of the juvenile in a place of nonsecure custody under
24 the supervision of the county department, the court shall order the juvenile into the
25 placement and care responsibility of the county department as required under 42

1 USC 672 (a) (2) and shall assign the county department primary responsibility for
2 providing services to the juvenile.

3 **SECTION 36.** 938.357 (1) (am) 3. of the statutes is amended to read:

4 938.357 (1) (am) 3. If the court changes the juvenile's placement from a
5 placement outside the home to another placement outside the home, the change in
6 placement order shall contain ~~one of the statements~~ the applicable order under sub.
7 (2v) (a) 1m. and the applicable statement under sub. (2v) (a) 2.

8 **SECTION 37.** 938.357 (1) (c) 3. of the statutes is amended to read:

9 938.357 (1) (c) 3. If the court changes the juvenile's placement from a placement
10 in the juvenile's home to a placement outside the juvenile's home, the change in
11 placement order shall contain the findings under sub. (2v) (a) 1., ~~one of the~~
12 ~~statements~~ the applicable order under sub. (2v) (a) 1m., the applicable statement
13 under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
14 under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination
15 under sub. (2v) (a) 3.

16 **SECTION 38.** 938.357 (2m) (c) of the statutes is amended to read:

17 938.357 (2m) (c) ~~In-home to out-of-home placement; findings~~ Findings
18 required. If the court changes the juvenile's placement from a placement in the
19 juvenile's home to a placement outside the juvenile's home, the change in placement
20 order shall contain the findings under sub. (2v) (a) 1., ~~one of the statements~~ the
21 applicable order under sub. (2v) (a) 1m., the applicable statement under sub. (2v) (a)
22 2., and, if in addition the court finds that any of the circumstances under s. 938.355
23 (2d) (b) 1. to 4. applies with respect to a parent, the determination under sub. (2v)
24 (a) 3. If the court changes the juvenile's placement from a placement outside the
25 home to another placement outside the home, the change in placement order shall

1 contain the applicable order under sub. (2v) (a) 1m. and the applicable statement
2 under sub. (2v) (a) 2.

3 **SECTION 39.** 938.357 (2v) (a) 1m. of the statutes is created to read:

4 938.357 (2v) (a) 1m. If the change in placement order changes the placement
5 of a juvenile who is under the supervision of the county department to a placement
6 outside the juvenile's home, whether from a placement in the home or from another
7 placement outside the home, an order ordering the juvenile into, or to be continued
8 in, the placement and care responsibility of the county department as required under
9 42 USC 672 (a) (2) and assigning the county department primary responsibility, or
10 continued primary responsibility, for providing services to the juvenile.

11 **SECTION 40.** 938.38 (2) (intro.) of the statutes is amended to read:

12 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
13 for each juvenile living in a foster home, treatment foster home, group home,
14 residential care center for children and youth, juvenile detention facility, or shelter
15 care facility, the agency that placed the juvenile or arranged the placement or the
16 agency assigned primary responsibility for providing services to the juvenile under
17 s. 938.355 (2) (b) 6g. shall prepare a written permanency plan, if any of the following
18 conditions exists, and, for each juvenile living in the home of a relative other than
19 a parent, that agency shall prepare a written permanency plan, if any of the
20 conditions under pars. (a) to (e) exists:

21 **SECTION 9321. Initial applicability; Health and Family Services.**

22 *auto ref A*
(1) OUT-OF-HOME PLACEMENTS OF CHILDREN.

23 (a) *Juvenile court reports.* The treatment of section 48.425 (1) (c) of the statutes
24 first applies to reports filed with the court assigned to exercise jurisdiction under
25 chapters 48 and 938 of the statutes on the effective date of this paragraph.

(with respect to transferring legal custody of a child to the department of health and family services)

(was turned)

1 (b) Orders placing child outside home. The treatment of sections 48.21 (5) (c),
2 48.235 (4) (b) and (4m) (b), 48.355 (2) (b) 1. and 6g., 48.357 (1) (am) 3. and (c) 3., (2m)
3 (c), and (2v) (a) 1m., 48.38 (2) (intro.), 48.417 (2) (c), 48.43 (1) (am) and (cm), 767.41
4 (3) (a) and (am), 767.451 (7), 938.21 (5) (c), 938.235 (4) (b), 938.32 (1) (c) 1. d., 938.355
5 (2) (b) 1. and 6g., (6) (d) 1., and (6m) (a) 1g., 938.357 (1) (am) 3. and (c) 3., (2m) (c),
6 and (2v) (a) 1m., and 938.38 (2) (intro.) of the statutes, the renumbering and
7 amendment of sections 48.21 (5) (b) 1., 48.32 (1) (b) 1., and 938.21 (5) (b) 1. of the
8 statutes and the creation of sections 48.21 (5) (b) 1. d., 48.32 (1) (b) 1. d., and 938.21
9 (5) (b) 1. d. of the statutes first apply to court orders granted on the effective date of
10 this paragraph.

11 (c) Voluntary agreements placing child outside home. The treatment of sections
12 48.63 (1) and 48.75 (1g) (c) 1. of the statutes first applies to voluntary agreements
13 placing a child outside the home entered into on the effective date of this paragraph.

(END)

XXXX NOTE: This is reconciled SECTION 9321 (1) (b). This SECTION
has been affected by drafts with the following LRB #'s:
LRB-0261 and LRB-1261.

auto ref A
note reconciliation

auto ref B

DNE

Dennis:

This draft reconciles LRB-0261/5 and LRB-1261/2.
Both LRB-0261 and LRB-1261 should
continue to appear in the compiled bill.

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0261/6dn
GMM:jld&cs:rs

January 31, 2007

Dennis:

This draft reconciles LRB-0261/5 and LRB-1261/2. Both LRB-0261 and LRB1261 should continue to appear in the compiled bill.

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0261/6
GMM:jld&cs:rs

DOA:.....Rhodes, BB0004 - County responsibility for care and placement of child

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, a court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code (juvenile court) is required to include in a dispositional order placing a child outside the home, an extension of a dispositional order continuing the placement of a child outside the home, and a consent decree maintaining a child in a placement outside the home findings that continued placement of the child in the home would be contrary to the welfare of the child, that reasonable efforts have been made to prevent the removal of the child from the home, and that reasonable efforts have been made to achieve the goal of the child's permanency plan, which is a plan designed to ensure that the child is reunified with his or her family whenever appropriate or that the child quickly attains a placement providing long-term stability. This bill requires the juvenile court to make the finding that reasonable efforts have been made to achieve the goal of the child's permanency plan in a termination of parental rights (TPR) order if a permanency plan has previously been filed with respect to the child.

Under current law, in an action affecting the family, for example, a divorce proceeding, if the circuit court finds that neither parent is able to care for the child

adequately or is fit and proper to have care and custody of the child, the circuit court may declare the child to be in need of protection or services and transfer legal custody of the child to a relative of the child, to the county department of human services or social services (county department), or to a licensed child welfare agency. This bill also permits a circuit court to transfer legal custody of a child found to be in need of protection or services in an action affecting the family in Milwaukee County to DHFS. In addition, if the circuit court transfers legal custody of a child found to be in need of protection or services in an action affecting the family to a county department, DHFS, or a licensed child welfare agency, the bill requires the circuit court to refer the matter to the juvenile court intake worker, who is required to conduct an intake inquiry to determine whether a petition alleging the child to be in need of protection or services should be filed with the juvenile court. Further, the bill requires a circuit court to include in an order transferring legal custody of a child found to be in need of protection or services in an action affecting the family a finding that placement of the child in his or her home would be contrary to the welfare of the child and, subject to certain exceptions, a finding that reasonable efforts have been made to prevent the removal of the child from the home.

The bill also requires a juvenile court, when ordering a child to be placed outside the home under the supervision of a county department or, in Milwaukee County, DHFS to order the child into the placement and care responsibility of the county department or DHFS and to assign the county department or DHFS primary responsibility for providing services to the child. In addition, the bill requires a county department, DHFS, or DOC, when placing a child outside the home under a voluntary agreement, to specifically state in the voluntary agreement that the county department, DHFS, or DOC has placement and care responsibility for the child and has primary responsibility for providing services to the child.

Under current law, if a child who has been taken into custody under the Children's Code or the Juvenile Justice Code is not released, the juvenile court is required to hold a hearing to determine whether the child should continue to be held in custody and is required to include in an order to hold a child in temporary physical custody certain findings, including a finding that reasonable efforts have been made to prevent the removal of the child from the home. Currently, if for good cause shown sufficient information is not available for the juvenile court to make that finding, the county department, DHFS in Milwaukee County, or the agency primarily responsible for providing services to the child is required to file with the juvenile court sufficient information for the juvenile court to make that finding within five days after the date of the temporary physical custody order. This bill requires that information to be filed with the juvenile court within five days, excluding Saturdays, Sundays, and legal holidays, after the date on which the temporary physical custody order is granted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 48.21 (5) (b) 1. of the statutes is renumbered 48.21 (5) (b) 1. a. and
2 amended to read:

3 48.21 (5) (b) 1. a. A finding that continued placement of the child in his or her
4 home would be contrary to the welfare of the child. ~~Unless the judge or circuit court~~
5 ~~commissioner finds that any of the circumstances specified in s. 48.355 (2d) (b) 1. to~~
6 ~~5. applies, the order shall in addition include a~~

7 b. A finding as to whether the person who took the child into custody and the
8 intake worker have made reasonable efforts to prevent the removal of the child from
9 the home, while assuring that the child's health and safety are the paramount
10 concerns, and a unless the judge or circuit court commissioner finds that any of the
11 circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies.

12 c. A finding as to whether the person who took the child into custody and the
13 intake worker have made reasonable efforts to make it possible for the child to return
14 safely home or, if,

15 1m. If for good cause shown sufficient information is not available for the judge
16 or circuit court commissioner to make a finding as to whether those reasonable
17 efforts were made to prevent the removal of the child from the home, while assuring
18 that the child's health and safety are the paramount concerns, a finding as to
19 whether those reasonable efforts were made to make it possible for the child to return
20 safely home and an order for the county department, department, in a county having
21 a population of 500,000 or more, or agency primarily responsible for providing

1 services to the child under the custody order to file with the court sufficient
2 information for the judge or circuit court commissioner to make a finding as to
3 whether those reasonable efforts were made to prevent the removal of the child from
4 the home by no later than 5 days, excluding Saturdays, Sundays, and legal holidays,
5 after the date of on which the order is granted.

6 **SECTION 2.** 48.21 (5) (b) 1. d. of the statutes is created to read:

7 48.21 (5) (b) 1. d. If the child is under the supervision of the county department
8 or, in a county having a population of 500,000 or more, the department, an order
9 ordering the child into the placement and care responsibility of the county
10 department or department as required under 42 USC 672 (a) (2) and assigning the
11 county department or department primary responsibility for providing services to
12 the child.

13 **SECTION 3.** 48.21 (5) (c) of the statutes is amended to read:

14 48.21 (5) (c) The judge or circuit court commissioner shall make the findings
15 specified in par. (b) 1., 1m., and 3. on a case-by-case basis based on circumstances
16 specific to the child and shall document or reference the specific information on
17 which those findings are based in the custody order. A custody order that merely
18 references par. (b) 1., 1m., or 3. without documenting or referencing that specific
19 information in the custody order or an amended custody order that retroactively
20 corrects an earlier custody order that does not comply with this paragraph is not
21 sufficient to comply with this paragraph.

22 **SECTION 4.** 48.235 (4) (b) of the statutes is amended to read:

23 48.235 (4) (b) The court shall order the agency identified under s. 48.355 (2) (b)
24 ~~1.~~ 48.33 (1) (c) as primarily responsible for the provision of services to notify the
25 guardian ad litem, if any, regarding actions to be taken under par. (a).

1 **SECTION 5.** 48.235 (4m) (b) of the statutes is amended to read:

2 48.235 (**4m**) (b) The court shall order the agency identified under s. 48.355 (2)
3 (b) ~~1.~~ 48.33 (1) (c) as primarily responsible for the provision of services to notify the
4 guardian ad litem, if any, regarding actions to be taken under par. (a).

5 **SECTION 6.** 48.315 (2m) (a) 1. of the statutes is amended to read:

6 48.315 (**2m**) (a) 1. The court making an initial finding under s. 48.21 (5) (b) 1.
7 or 1m., 48.355 (2) (b) 6., or 48.357 (2v) (a) 1. that reasonable efforts have been made
8 to prevent the removal of the child from the home, while assuring that the child's
9 health and safety are the paramount concerns, or an initial finding under s. 48.21
10 (5) (b) 3., 48.355 (2) (b) 6r., or 48.357 (2v) (a) 3. that those efforts were not required
11 to be made because a circumstance specified in s. 48.355 (2d) (b) 1. to 5. applies, more
12 than 60 days after the date on which the child was removed from the home.

13 **SECTION 7.** 48.32 (1) (b) 1. of the statutes is renumbered 48.32 (1) (b) 1. (intro.)
14 and amended to read:

15 48.32 (**1**) (b) 1. (intro.) If at the time the consent decree is entered into the child
16 is placed outside the home under a voluntary agreement under s. 48.63 or is
17 otherwise living outside the home without a court order and if the consent decree
18 maintains the child in that placement or other living arrangement, the consent
19 decree shall include ~~a-~~ all of the following:

20 a. A finding that placement of the child in his or her home would be contrary
21 to the welfare of the child, ~~a-~~

22 b. A finding as to whether the county department, the department, in a county
23 having a population of 500,000 or more, or the agency primarily responsible for
24 providing services to the child has made reasonable efforts to prevent the removal
25 of the child from the home, while assuring that the child's health and safety are the

1 paramount concerns, unless the judge or circuit court commissioner finds that any
2 of the circumstances specified in s. 48.355 (2d) (b) 1. to 5. applies, ~~and a.~~

3 c. A finding as to whether the county department, department, or agency has
4 made reasonable efforts to achieve the goal of the child's permanency plan, unless
5 return of the child to the home is the goal of the permanency plan and the judge or
6 circuit court commissioner finds that any of the circumstances specified in s. 48.355
7 (2d) (b) 1. to 5. applies.

8 **SECTION 8.** 48.32 (1) (b) 1. d. of the statutes is created to read:

9 48.32 (1) (b) 1. d. If the child's placement or other living arrangement is under
10 the supervision of the county department or, in a county having a population of
11 500,000 or more, the department, an order ordering the child into the placement and
12 care responsibility of the county department or department as required under 42
13 USC 672 (a) (2) and assigning the county department or department primary
14 responsibility for providing services to the child.

15 **SECTION 9.** 48.335 (3g) of the statutes is renumbered 48.335 (3g) (intro.) and
16 amended to read:

17 48.335 (3g) (intro.) At hearings under this section, if the agency, as defined in
18 s. 48.38 (1) (a), is recommending placement of the child in a foster home, treatment
19 foster home, group home, or residential care center for children and youth or in the
20 home of a relative other than a parent, the agency shall present as evidence specific
21 information showing that all of the following:

22 (a) That continued placement of the child in his or her home would be contrary
23 to the welfare of the child, ~~specific information showing that.~~

24 (b) That the county department, the department, in a county having a
25 population of 500,000 or more, or the agency primarily responsible for providing

1 services to the child has made reasonable efforts to prevent the removal of the child
2 from the home, while assuring that the child's health and safety are the paramount
3 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
4 applies, ~~and specific information showing that.~~

5 (c) That the county department, department, or agency has made reasonable
6 efforts to achieve the goal of the child's permanency plan, unless return of the child
7 to the home is the goal of the permanency plan and any of the circumstances specified
8 in s. 48.355 (2d) (b) 1. to 5. applies.

9 **SECTION 10.** 48.355 (2) (b) 1. of the statutes is amended to read:

10 48.355 (2) (b) 1. The specific services ~~or continuum of services~~ to be provided
11 to the child and family, to the child expectant mother and family, or to the adult
12 expectant mother, ~~the identity of the agencies which are to be primarily responsible~~
13 ~~for the provision of the services ordered by the judge, the identity of the person or~~
14 ~~agency who will provide case management or coordination of services, if any, and, if~~
15 custody of the child is to be transferred to effect the treatment plan, the identity of
16 the legal custodian.

17 **SECTION 11.** 48.355 (2) (b) 6g. of the statutes is created to read:

18 48.355 (2) (b) 6g. If the child is placed outside the home under the supervision
19 of the county department or, in a county having a population of 500,000 or more, the
20 department, an order ordering the child into the placement and care responsibility
21 of the county department or department as required under 42 USC 672 (a) (2) and
22 assigning the county department or department primary responsibility for providing
23 services to the child.

24 **SECTION 12.** 48.357 (1) (am) 3. of the statutes is amended to read:

1 48.357 (1) (am) 3. If the court changes the child's placement from a placement
2 outside the home to another placement outside the home, the change in placement
3 order shall contain ~~one of the statements~~ the applicable order specified in sub. (2v)
4 (a) 1m. and the applicable statement specified in sub. (2v) (a) 2.

5 **SECTION 13.** 48.357 (1) (c) 3. of the statutes is amended to read:

6 48.357 (1) (c) 3. If the court changes the child's placement from a placement in
7 the child's home to a placement outside the child's home, the change in placement
8 order shall contain the findings specified in sub. (2v) (a) 1., ~~one of the statements~~ the
9 applicable order specified in sub. (2v) (a) 1m., the applicable statement specified in
10 sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
11 specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the
12 determination specified in sub. (2v) (a) 3.

13 **SECTION 14.** 48.357 (2m) (c) of the statutes is amended to read:

14 48.357 (2m) (c) If the court changes the child's placement from a placement in
15 the child's home to a placement outside the child's home, the change in placement
16 order shall contain the findings specified in sub. (2v) (a) 1., ~~one of the statements~~ the
17 applicable order specified in sub. (2v) (a) 1m., the applicable statement specified in
18 sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
19 specified in s. 48.355 (2d) (b) 1. to 5. applies with respect to a parent, the
20 determination specified in sub. (2v) (a) 3. If the court changes the child's placement
21 from a placement outside the home to another placement outside the home, the
22 change in placement order shall contain the applicable order specified in sub. (2v)
23 (a) 1m. and the applicable statement specified in sub. (2v) (a) 2.

24 **SECTION 15.** 48.357 (2v) (a) 1m. of the statutes is created to read:

1 48.357 (2v) (a) 1m. If the change in placement order changes the placement of
2 a child who is under the supervision of the county department or, in a county having
3 a population of 500,000 or more, the department to a placement outside the child's
4 home, whether from a placement in the home or from another placement outside the
5 home, an order ordering the child into, or to be continued in, the placement and care
6 responsibility of the county department or department as required under 42 USC
7 672 (a) (2) and assigning the county department or department primary
8 responsibility, or continued primary responsibility, for providing services to the
9 child.

10 **SECTION 16.** 48.38 (2) (intro.) of the statutes is amended to read:

11 48.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
12 for each child living in a foster home, treatment foster home, group home, residential
13 care center for children and youth, juvenile detention facility, or shelter care facility,
14 the agency that placed the child or arranged the placement or the agency assigned
15 primary responsibility for providing services to the child under s. 48.355 (2) (b) 6g.
16 shall prepare a written permanency plan, if any of the following conditions exists,
17 and, for each child living in the home of a relative other than a parent, that agency
18 shall prepare a written permanency plan, if any of the conditions specified in pars.
19 (a) to (e) exists:

20 **SECTION 17.** 48.417 (2) (c) of the statutes is amended to read:

21 48.417 (2) (c) The agency primarily responsible for providing services to the
22 ~~child and the family~~ under a court order, if required under s. 48.355 (2) (b) 6. to make
23 reasonable efforts to make it possible for the child to return safely to his or her home,
24 has not provided to the family of the child, consistent with the time period in the

1 child's permanency plan, the services necessary for the safe return of the child to his
2 or her home.

3 **SECTION 18.** 48.425 (1) (c) of the statutes is amended to read:

4 48.425 (1) (c) If the child has been previously adjudicated to be in need of
5 protection and services, a statement of the steps the agency or person responsible for
6 provision of services has taken to remedy the conditions responsible for court
7 intervention and the parent's response to and cooperation with these services. If the
8 child has been removed from the home, the report ~~should~~ shall also include a
9 statement of the reasons why the child cannot be returned safely to the family, and
10 the steps the person or agency has taken to effect this return. If a permanency plan
11 has previously been prepared for the child, the report shall also include specific
12 information showing that the agency primarily responsible for providing services to
13 the child has made reasonable efforts to achieve the goal of the child's permanency
14 plan.

15 **SECTION 19.** 48.43 (1) (am) of the statutes is created to read:

16 48.43 (1) (am) If the department or a county department receives guardianship
17 or custody of the child under par. (a), an order ordering the child into the placement
18 and care responsibility of the department or county department as required under
19 42 USC 672 (a) (2) and assigning the department or county department primary
20 responsibility for providing services to the child.

21 **SECTION 20.** 48.43 (1) (cm) of the statutes is created to read:

22 48.43 (1) (cm) If a permanency plan has previously been prepared for the child,
23 a finding as to whether the agency primarily responsible for providing services to the
24 child has made reasonable efforts to achieve the goal of the child's permanency plan.
25 The court shall make the findings specified in this paragraph on a case-by-case basis

1 based on circumstances specific to the child and shall document or reference the
2 specific information on which those findings are based in the order. An order that
3 merely references this paragraph without documenting or referencing that specific
4 information in the order or an amended order that retroactively corrects an earlier
5 order that does not comply with this paragraph is not sufficient to comply with this
6 paragraph.

7 **SECTION 21.** 48.63 (1) of the statutes is amended to read:

8 48.63 (1) Acting under court order or voluntary agreement, the child's parent
9 or guardian or the department of ~~health and family services~~, the department of
10 corrections, a county department, or a child welfare agency licensed to place children
11 in foster homes, treatment foster homes, or group homes may place a child or
12 negotiate or act as intermediary for the placement of a child in a foster home,
13 treatment foster home, or group home. Voluntary agreements under this subsection
14 may not be used for placements in facilities other than foster, treatment foster, or
15 group homes and may not be extended. A foster home or treatment foster home
16 placement under a voluntary agreement may not exceed 180 days from the date on
17 which the child was removed from the home under the voluntary agreement. A group
18 home placement under a voluntary agreement may not exceed 15 days from the date
19 on which the child was removed from the home under the voluntary agreement,
20 except as provided in sub. (5). These time limitations do not apply to placements
21 made under s. 48.345, 938.183, 938.34, or 938.345. Voluntary agreements may be
22 made only under this subsection and sub. (5) (b) and shall be in writing and shall
23 specifically state that the agreement may be terminated at any time by the parent
24 or guardian or by the child if the child's consent to the agreement is required. The
25 child's consent to the agreement is required whenever the child is 12 years of age or

1 older. If a county department, the department, or the department of corrections
2 places a child or negotiates or acts as intermediary for the placement of a child under
3 this subsection, the voluntary agreement shall also specifically state that the county
4 department, department, or department of corrections has placement and care
5 responsibility for the child as required under 42 USC 672 (a) (2) and has primary
6 responsibility for providing services to the child.

7 **SECTION 22.** 48.75 (1g) (c) 1. of the statutes is amended to read:

8 48.75 **(1g)** (c) 1. A statement that the public licensing agency issuing the license
9 is responsible has placement and care responsibility for the child as required under
10 42 USC 672 (a) (2) and has primary responsibility for providing services to the child
11 who is placed in the foster home, as specified in the agreement.

12 **SECTION 23.** 767.41 (3) (a) of the statutes is amended to read:

13 767.41 **(3)** (a) If the interest of any child demands it, and if the court finds that
14 neither parent is able to care for the child adequately or that neither parent is fit and
15 proper to have the care and custody of the child, the court may declare the child to
16 be in need of protection or services and transfer legal custody of the child to a relative
17 of the child, as defined in s. 48.02 (15), to a county department, as defined under s.
18 48.02 (2g), or to a licensed child welfare agency, or, in a county having a population
19 of 500,000 or more, the department of health and family services. If the court
20 transfers legal custody of a child under this subsection, in its order the court shall
21 notify the parents of any applicable grounds for termination of parental rights under
22 s. 48.415. If the court transfers legal custody under this section to an agency, the
23 court shall also refer the matter to the court intake worker, as defined in s. 48.02 (3),
24 who shall conduct an inquiry under s. 48.24 to determine whether a petition should
25 be filed under s. 48.13.

1 **SECTION 24.** 767.41 (3) (am) of the statutes is created to read:

2 767.41 (3) (am) If the court transfers legal custody of a child under this
3 subsection, the order transferring custody shall include a finding that placement of
4 the child in his or her home would be contrary to the welfare of the child and a finding
5 that reasonable efforts have been made to prevent the removal of the child from the
6 home, while assuring that the health and safety of the child are the paramount
7 concerns, unless any of the circumstances specified in s. 48.355 (2d) (b) 1. to 5.
8 applies. If the legal custodian appointed under par. (a) is a county department, the
9 court shall order the child into the placement and care responsibility of the county
10 department as required under 42 USC 672 (a) (2) and shall assign the county
11 department primary responsibility for providing services to the child. The court
12 shall make the findings specified in this paragraph on a case-by-case basis based
13 on circumstances specific to the child and shall document or reference the specific
14 information on which those findings are based in the court order. A court order that
15 merely references this paragraph without documenting or referencing that specific
16 information in the court order or an amended court order that retroactively corrects
17 an earlier court order that does not comply with this paragraph is not sufficient to
18 comply with this paragraph.

19 **SECTION 25.** 767.451 (7) of the statutes is amended to read:

20 767.451 (7) **TRANSFER TO DEPARTMENT.** The court may order custody transferred
21 to the department of health and family services only if that department agrees to
22 accept custody. If the court orders custody transferred to the department of health
23 and family services, the order transferring custody shall include the findings and
24 order specified in s. 767.41 (3) (am).

1 **SECTION 26.** 938.21 (5) (b) 1. of the statutes is renumbered 938.21 (5) (b) 1. a.
2 and amended to read:

3 938.21 (5) (b) 1. a. A finding that continued placement of the juvenile in his or
4 her home would be contrary to the welfare of the juvenile. ~~Unless the court finds that~~
5 ~~any of the circumstances specified in s. 938.355 (2d) (b) 1. to 4. applies, the order shall~~
6 ~~in addition include a-~~

7 b. A finding as to whether the person who took the juvenile into custody and
8 the intake worker have made reasonable efforts to prevent the removal of the
9 juvenile from the home, while assuring that the juvenile's health and safety are the
10 paramount concerns, ~~and a- unless the court finds that any of the circumstances~~
11 specified in s. 938.355 (2d) (b) 1. to 4. applies.

12 c. A finding as to whether the person who took the juvenile into custody and
13 the intake worker have made reasonable efforts to make it possible for the juvenile
14 to return safely home.

15 1m. If for good cause shown sufficient information is not available for the court
16 to make a finding as to whether those reasonable efforts were made to prevent the
17 removal of the juvenile from the home, ~~the order shall include~~ while assuring that
18 the juvenile's health and safety are the paramount concerns, a finding as to whether
19 those reasonable efforts were made to make it possible for the juvenile to return
20 safely home and an order for the county department or agency primarily responsible
21 for providing services to the juvenile under the custody order to file with the court
22 sufficient information for the court to make a finding as to whether those reasonable
23 efforts were made to prevent the removal of the juvenile from the home by no later
24 than 5 days, excluding Saturdays, Sundays, and legal holidays, after the date of on
25 which the order is granted.

1 **SECTION 27.** 938.21 (5) (b) 1. d. of the statutes is created to read:

2 938.21 (5) (b) 1. d. If the juvenile is under the supervision of the county
3 department, an order ordering the juvenile into the placement and care
4 responsibility of the county department as required under 42 USC 672 (a) (2) and
5 assigning the county department primary responsibility for providing services to the
6 juvenile.

7 **SECTION 28.** 938.21 (5) (c) of the statutes is amended to read:

8 938.21 (5) (c) The court shall make the findings specified in par. (b) 1., 1m., and
9 3. on a case-by-case basis based on circumstances specific to the juvenile and shall
10 document or reference the specific information on which those findings are based in
11 the custody order. A custody order that merely references par. (b) 1., 1m., or 3.
12 without documenting or referencing that specific information in the custody order
13 or an amended custody order that retroactively corrects an earlier custody order that
14 does not comply with this paragraph is not sufficient to comply with this paragraph.

15 **SECTION 29.** 938.235 (4) (b) of the statutes is amended to read:

16 938.235 (4) (b) The court shall order the agency identified under s. 938.355 (2)
17 (b) 1. 938.33 (1) (c) as primarily responsible for the provision of services to notify the
18 guardian ad litem, if any, regarding actions to be taken under par. (a).

19 **SECTION 30.** 938.315 (2m) (a) of the statutes is amended to read:

20 938.315 (2m) (a) The court making an initial finding under s. 938.21 (5) (b) 1.
21 or 1m., 938.355 (2) (b) 6., or 938.357 (2v) (a) 1. that reasonable efforts have been made
22 to prevent the removal of the juvenile from the home, while assuring that the
23 juvenile's health and safety are the paramount concerns, or an initial finding under
24 s. 938.21 (5) (b) 3., 938.355 (2) (b) 6r., or 938.357 (2v) (a) 3. that those efforts were not
25 required to be made because a circumstance specified in s. 938.355 (2d) (b) 1. to 4.

1 applies, more than 60 days after the date on which the juvenile was removed from
2 the home.

3 **SECTION 31.** 938.32 (1) (c) 1. d. of the statutes is created to read:

4 938.32 (1) (c) 1. d. If the juvenile's placement or other living arrangement is
5 under the supervision of the county department, an order ordering the juvenile into
6 the placement and care responsibility of the county department as required under
7 42 USC 672 (a) (2) and assigning the county department primary responsibility for
8 providing services to the juvenile.

9 **SECTION 32.** 938.355 (2) (b) 1. of the statutes is amended to read:

10 938.355 (2) (b) 1. The specific services ~~or continuum of services~~ to be provided
11 to the juvenile and the juvenile's family, ~~the identity of the agencies that are~~
12 ~~primarily responsible for the provision of the services, the identity of the person or~~
13 ~~agency that will provide case management or coordination of services, if any, and, if~~
14 custody is to be transferred to effect the treatment plan, the identity of the legal
15 custodian.

16 **SECTION 33.** 938.355 (2) (b) 6g. of the statutes is created to read:

17 938.355 (2) (b) 6g. If the juvenile is placed outside the home under the
18 supervision of the county department, an order ordering the juvenile into the
19 placement and care responsibility of the county department as required under 42
20 USC 672 (a) (2) and assigning the county department primary responsibility for
21 providing services to the juvenile.

22 **SECTION 34.** 938.355 (6) (d) 1. of the statutes is amended to read:

23 938.355 (6) (d) 1. Placement of the juvenile in a secure detention facility or
24 juvenile portion of a county jail that meets the standards promulgated by the
25 department by rule or in a place of nonsecure custody, for not more than 10 days and

1 the provision of educational services consistent with his or her current course of
2 study during the period of placement. The juvenile shall be given credit against the
3 period of detention or nonsecure custody imposed under this subdivision for all time
4 spent in secure detention in connection with the course of conduct for which the
5 detention or nonsecure custody was imposed. If the court orders placement of the
6 juvenile in a place of nonsecure custody under the supervision of the county
7 department, the court shall order the juvenile into the placement and care
8 responsibility of the county department as required under 42 USC 672 (a) (2) and
9 shall assign the county department primary responsibility for providing services to
10 the juvenile.

11 **SECTION 35.** 938.355 (6m) (a) 1g. of the statutes is amended to read:

12 938.355 (6m) (a) 1g. Placement of the juvenile in a secure detention facility or
13 juvenile portion of a county jail that meets the standards promulgated by the
14 department by rule or in a place of nonsecure custody, for not more than 10 days and
15 the provision of educational services consistent with his or her current course of
16 study during the period of placement. The juvenile shall be given credit against the
17 period of detention or nonsecure custody imposed under this subdivision for all time
18 spent in secure detention in connection with the course of conduct for which the
19 detention or nonsecure custody was imposed. The use of placement in a secure
20 detention facility or in a juvenile portion of a county jail as a sanction under this
21 subdivision is subject to the adoption of a resolution by the county board of
22 supervisors under s. 938.06 (5) authorizing the use of those placements as a sanction.
23 If the court orders placement of the juvenile in a place of nonsecure custody under
24 the supervision of the county department, the court shall order the juvenile into the
25 placement and care responsibility of the county department as required under 42

1 USC 672 (a) (2) and shall assign the county department primary responsibility for
2 providing services to the juvenile.

3 **SECTION 36.** 938.357 (1) (am) 3. of the statutes is amended to read:

4 938.357 (1) (am) 3. If the court changes the juvenile's placement from a
5 placement outside the home to another placement outside the home, the change in
6 placement order shall contain ~~one of the statements~~ the applicable order under sub.
7 (2v) (a) 1m. and the applicable statement under sub. (2v) (a) 2.

8 **SECTION 37.** 938.357 (1) (c) 3. of the statutes is amended to read:

9 938.357 (1) (c) 3. If the court changes the juvenile's placement from a placement
10 in the juvenile's home to a placement outside the juvenile's home, the change in
11 placement order shall contain the findings under sub. (2v) (a) 1., ~~one of the~~
12 ~~statements~~ the applicable order under sub. (2v) (a) 1m., the applicable statement
13 under sub. (2v) (a) 2., and, if in addition the court finds that any of the circumstances
14 under s. 938.355 (2d) (b) 1. to 4. applies with respect to a parent, the determination
15 under sub. (2v) (a) 3.

16 **SECTION 38.** 938.357 (2m) (c) of the statutes is amended to read:

17 938.357 (2m) (c) ~~In-home to out-of-home placement; findings~~ Findings
18 required. If the court changes the juvenile's placement from a placement in the
19 juvenile's home to a placement outside the juvenile's home, the change in placement
20 order shall contain the findings under sub. (2v) (a) 1., ~~one of the statements~~ the
21 applicable order under sub. (2v) (a) 1m., the applicable statement under sub. (2v) (a)
22 2., and, if in addition the court finds that any of the circumstances under s. 938.355
23 (2d) (b) 1. to 4. applies with respect to a parent, the determination under sub. (2v)
24 (a) 3. If the court changes the juvenile's placement from a placement outside the
25 home to another placement outside the home, the change in placement order shall

1 contain the applicable order under sub. (2v) (a) 1m. and the applicable statement
2 under sub. (2v) (a) 2.

3 **SECTION 39.** 938.357 (2v) (a) 1m. of the statutes is created to read:

4 938.357 (2v) (a) 1m. If the change in placement order changes the placement
5 of a juvenile who is under the supervision of the county department to a placement
6 outside the juvenile's home, whether from a placement in the home or from another
7 placement outside the home, an order ordering the juvenile into, or to be continued
8 in, the placement and care responsibility of the county department as required under
9 42 USC 672 (a) (2) and assigning the county department primary responsibility, or
10 continued primary responsibility, for providing services to the juvenile.

11 **SECTION 40.** 938.38 (2) (intro.) of the statutes is amended to read:

12 938.38 (2) PERMANENCY PLAN REQUIRED. (intro.) Except as provided in sub. (3),
13 for each juvenile living in a foster home, treatment foster home, group home,
14 residential care center for children and youth, juvenile detention facility, or shelter
15 care facility, the agency that placed the juvenile or arranged the placement or the
16 agency assigned primary responsibility for providing services to the juvenile under
17 s. 938.355 (2) (b) 6g. shall prepare a written permanency plan, if any of the following
18 conditions exists, and, for each juvenile living in the home of a relative other than
19 a parent, that agency shall prepare a written permanency plan, if any of the
20 conditions under pars. (a) to (e) exists:

21 **SECTION 9321. Initial applicability; Health and Family Services.**

22 (1) OUT-OF-HOME PLACEMENTS OF CHILDREN.

23 (a) *Juvenile court reports.* The treatment of section 48.425 (1) (c) of the statutes
24 first applies to reports filed with the court assigned to exercise jurisdiction under
25 chapters 48 and 938 of the statutes on the effective date of this paragraph.

